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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,267	07/17/2003	Robert Gary Ellis	36070.010	4210

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ROZSA LAW GROUP LC  
18757 BURBANK BOULEVARD  
SUITE 220  
TARZANA, CA 91356-3346

EXAMINER

FERNSTROM, KURT

ART UNIT PAPER NUMBER

3711

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/20/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/622,267	<b>Applicant(s)</b> ELLIS, ROBERT GARY	
	<b>Examiner</b> Kurt Fernstrom	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 12-14 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/17/03</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guerra in view of Bailey. Guerra discloses in the Figures and the specification a practice device to simulate skateboarding comprising an elongated structure having a center section and front and rear sections having adjoining upper and lower surfaces, the center section having a lower smooth surface. From Figure 1, it is apparent that the front and rear sections extend from the center section at a angle within the claimed range. Guerra fails to disclose a ridge which forms a lowered interior section. Bailey discloses in Figures 1 and 7 a skateboard deck having a ridge 22 which extends around the perimeter of the board, forming a lowered interior. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Guerra by providing a ridge as disclosed by Bailey for the purpose of protecting the edge of the elongated structure.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guerra in view of Bailey, and further in view of Gordon. Guerra as viewed in combination with Bailey discloses all of the claimed limitations with the exception of the device being made of plastic. However, it is well known to construct skateboard decks using plastic,

Art Unit: 3711

as disclosed for example in column 4, lines 4-11 of Gordon. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Guerra by using plastic to form the device as disclosed by Gordon for the purpose of providing a durable material.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guerra in view of Bailey, and further in view of Turner. Guerra as viewed in combination with Bailey discloses all of the claimed limitations with the exception of the device being made of plastic. However, it is known to provide grip pads on skateboard decks, as disclosed for example in Figure 1 and in the specification of Turner. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Guerra by providing a grip pad for the purpose of enabling a user to more easily grip the elongated structure during use.

***Allowable Subject Matter***

Claims 1-10 are allowed.

Claims 12-14 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest a device having all of the claimed limitations. In particular, with respect to claims 1 and 12, there is no disclosure of an interior hollow chamber containing noisemaking material as recited. This feature,

Art Unit: 3711

discussed at pages 11-12 of the specification, has a functional purpose in that it enables a user to more easily sense the movement of the board. With respect to claims 7 and 17, there is no suggestion in the prior art of a vertical wall formed by the ridge as recited. The ridge of Bailey, as shown in Figure 7, is rounded. The vertical wall has utility in that a user may rest his or her foot against the wall during use, gaining increased traction and facilitating training. See page 11, lines 6-11 of the specification. As a result, these claims and their dependents contain allowable subject matter.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Loveless, Todd, Steiner, Corbalis, Desberg, Bobrowicz, Wilson, and Spencer disclose various skateboards and skateboard training devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M, T, Th 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KF

December 14, 2006



**KURT FERNSTROM  
PRIMARY EXAMINER**